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Page 1
       IN THE UNITED STATES DISTRICT COURT
1
            FOR THE DISTRICT OF MARYLAND
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     EQUAL EMPLOYMENT OPPORTUNITY: CASE NO.
3
     COMMISSION,
            Plaintiff,
                                    WDQ-02-CV-648
4
               AND
    KATHY C. KOCH,
5
            Plaintiff-Intervenor, :
6
               VS.
7
     LA WEIGHT LOSS,
           Defendant.
8
 9
            Oral deposition of KRISTI O'BRIEN,
10
     held at the offices of the Equal
11
     Employment Opportunity Commission, Bourse
12
     Building, Suite 400, 111 South
13
     Independence Mall East, Philadelphia,
14
     Pennsylvania, on Thursday, August 28,
15
     2003, beginning at 9:35 a.m., before
16
     Debra J. Weaver, a Federally Approved
17
     Registered Professional Reporter,
18
    Certified Realtime Reporter and Certified
19
     Shorthand Reporter.
20
21
            ESOUIRE DEPOSITION SERVICES
           1880 John F. Kennedy Boulevard
22
                     15th Floor
              Philadelphia, PA 19103
23
                   (215) 988-9191
24
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Page 258 Page 260 1 Q. Did she say that she was not 1 A. No. As a matter of fact, I 2 going to follow your instructions? 2 mean, it's the opposite. Typically, if I A. I don't recall. I don't 3 3 get feedback like that, then on my next 4 remember if she said that or not. She 4 conference call or in a meeting I will 5 told me she disagreed with me. And I 5 ask them what they think and if they feel don't remember if after that she said, 6 6 that the agenda should be changed, if it 7 but I'll do it or I disagree with you and 7 would be more effective taught another 8 I'm going to continue doing it this way. 8 wav. 9 I don't remember. 9 Q. Because we want to improve 10 Q. Okay. So you remember she 10 the program? disagreed with you but you don't remember A. Sure. Because if something 11 11 whether she expressed whether or not she is not working, I want to know and I want 12 12 13 was going to defy your instructions? Is 13 to change it. That's one of the reasons 14 that your testimony? 14 our training programs change a lot 15 A. Right. Yes. because we're always looking to improve 15 16 Q. Don't you think you would 16 our training program. remember that? Q. So you encourage different 17 17 MR. LANDAU: Objection. 18 viewpoints to see if there are new ideas 18 19 19 Argumentative. we can use to improve the program, right? A. Yes. 20 BY MR. PHILLIPS: 20 That's okay. You can 21 Q. 21 So the fact that Ms. Koch 22 22 may have disagreed with you regarding the answer. 23 A. I don't remember. I 23 agenda and how much time you spend on an 24 remember having a conversation with her 24 item, that fact did not warrant firing? Page 259 Page 261 and her disagreeing that the agenda 1 A. No. 2 should have been set up this way and that 2 Q. Let's talk about the next certain things should come before other 3 3 item. You mentioned there was an things. That's what I remember about the 4 4 inconsistency within Mrs. Koch's 5 conversation. Whether she in the end --5 territory with respect to chart work-ups. I mean, again, I deal with hundreds of 6 How did you come to know that there was 7 7 people, lots of trainers, and at the end such a problem? 8 of these kinds of conversations, I have 8 Lynne Portlock told me. 9 someone say, well, quite honestly, I'm 9 Q. Okay. Did you ever have any 10 going to continue doing it this way 10 personal knowledge of how Ms. Koch was because I think it's more effective, or I performing that training with respect to 11 11 see your point and I'm going to do it the 12 12 chart work-ups? way you want me to do it. And I don't What do you mean by personal 13 13 A. 14 remember ultimately what her response 14 knowledge? 15 was. 15 Q. Did you ever see Ms. Koch performing training on chart work-ups? 16 Q. Have you ever had anyone 16 else express to you that they disagreed 17 A. No. 17 with you with respect to the agenda and 18 18 Q. Did you ever ask Ms. Koch, 19 how the training should be conducted, any describe for me how you're performing 19 other trainers express that view to you, 20 20 training on chart work-ups? 21 that they disagreed with you? 21 A. I don't remember. 22 A. Sure. 22 Q. Do you recall the specific 23 Q. Were any of those trainers 23 problem that Lynne Portlock communicated ever fired to your knowledge? to you regarding chart work-ups?

		Page 262			Page 264
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	A. She reported those three performance areas in one conversation, that these were her issues, that she had employees that were in the field not prepared to conduct and feeling competent and comfortable conducting the daily visits, the medical histories and the chart work-ups.  Q. Well, did you ever think to ask Kathy Koch, what are you doing with respect to chart work-ups? I mean, was that ever something that do you recall doing that? Do you recall asking her?  A. I believe that Lynne had some coaching sessions. At the point that I got the call, Lynne had told me that she already had these conversations with Kathy and that these things were being corrected.  Q. Okay. But listen to my question. Have you ever had any conversation where you asked Kathy Koch, what are you doing with respect to training people on chart work-ups? I		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	observe Kathy Koch performing training on the issue of medical histories?  A. No. Q. Did you ever look at a tape of her performing training? A. No. Q. Artist's rendering of her performing training? A. No. Q. Did you ever ask Kathy Koch, what are you doing with respect to training people on medical histories? A. I don't remember. I'm sure I would have because, you know, I talked to Kathy about Lynne calling me and having these concerns. Q. But do you remember specifically sitting here today asking Kathy Koch, how are you training employees on medical histories? A. I don't remember that. No, I don't remember it. Q. Did you take any notes of your telephone conversations with Ms.	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	know about Lynne.  A. I don't remember. Q. Okay. Let's talk about medical histories. What was the problem there with medical histories, training on medical histories?  A. The problem, from what I understood, is that the employees leaving Kathy's training program did not feel prepared to conduct medical histories, daily visits, chart work-ups, PEs. Q. How did you learn of that problem?  A. From Lynne Portlock. And, evidently, I think at one point she had employees put in writing that they weren't prepared, like did a training evaluation, how prepared were you coming out of training class, is there anything that we can do better, something like that. So I had read training evaluations from participants in Kathy's training class. Q. Okay. Did you personally	Page 263	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Koch?  A. I don't remember if I did or not. Most of the time I did. But I don't remember specifically if I did that.  Q. Most of the time with Ms. Koch or most of the time  A. In general. Q. With anybody? A. Yes. Q. Where did you keep those notes? A. I had a notepad, similar to that. Q. Did you have a procedure for what you did with those notes? A. No. Q. Did you ever have circumstances where you took notes of conversations involving allegations of training deficiencies other than Ms. Koch? Do you recall taking notes during any conversation  A. Yes.	Page 265

1 Q — other than Ms, Koch? 2 A. Yes. 3 Q. Okay. What did you do with 4 those notes? 5 A. Well, for a while I'd save 6 those pads, but then eventually I'd 7 probably discard them. If it was, 9 you know, something that I felt needed to 10 go into their employee file, I'd put it 11 in their employee file, I'd put it 12 Q. Would a training deficiency, 13 would that fall within the category of 14 things that need to go in an employee's 15 file? 16 A. Yes. 17 Q. Do you recall putting any 18 notes regarding Kathy Koch in her file? 19 A. I don't herefore medical histories 19 A. I don't promation of the medical object					
1 Q. — other than Ms. Koch? 2 A. Yes. 3 Q. Okay. What did you do with 4 those notes? 5 A. Well, for a while I'd save 6 those pads, but then eventually I'd 7 probably discard them. If it was a 8 corrective counseling session, if it was, 9 you know, something that I felt needed to 10 go into their employee file. If upt it 11 in their employee file. 12 Q. Would a training deficiency, 13 would that fall within the category of 14 things that need to go in an employee's 15 file? 16 A. Yes. 17 Q. Do you recall putting any 18 notes regarding Kathy Koch in her file? 19 A. I don't believe I did. 20 Q. Generally, how long would 21 you keep those notes? 22 A. Not long. A couple months. 23 Q. Did you ever receive any 24 instruction from anybody at the company  Page 267  1 that you need to keep all of your notes 22 regarding Kathy Koch, if any? 3 A. No. 4 Q. Okay. So it's fair to say 4 that, with respect to medical histories 5 then, that your recollection is that you 24 got the information on training problems 25 from Lynne Portlock? 26 A. Yes. 27 A. Yes. 28 Q. Okay. What specifically was 29 I it about the medical history that was 20 Q. Okay. What specifically was 21 I synne's concern? Was it what you just 23 I alked about with the employees 24 complaining that they were not adequately 25 prepared? 26 Q. Well, you mentioned that you 27 reviewed the employee statements? 28 A. No. 29 Q. Did you talk to the 29 Q. Down while I'd save 29 Q. Did you talk to the 29 Q. Did you talk to the 29 Q. Down while I'd save 29 Q. Did you talk to the 29 Q. Did you talk to the 29 Q. Okay. What specifically was 20 Q. Did you talk to the 21 complaining that there of a problem with a trainer, 22 training performance is not good, or 23 Q. Poid you take the trainers? 24 A. No. 25 Q. Okay. What specifically was 26 Condaining that there are problem with a trainer, 27 for example, Agric Goldshlack, 28 vere talked about with a trainer, 29 Q. Did you t			Page 266		Page 268
2 Q. Okay. What did you do with 4 those notes? 5 A. Well, for a while I'd save 5 those pads, but then eventually I'd 7 probably discard them. If it was a 8 corrective counseling session, if it was, 9 you know, something that I felt needed to 10 go into their employce file, I'd put it 11 in their employce file, I'd put it 12 Q. Would a training deficiency, 13 would that fall within the category of 14 things that need to go in an employee's 15 file? 16 A. Yes. 17 Q. Do you recall putting any 18 notes regarding Kathy Koch in her file? 19 A. I don't believe I did. 20 Q. Generally, how long would 21 you keep those notes? 22 A. Not long. A couple months. 23 Q. Did you ever receive any 24 instruction from anybody at the company  19 that you need to keep all of your notes 10 regarding Kathy Koch, if any? 11 that you need to keep all of your notes 12 regarding Kathy Koch, if any? 13 A. No. 14 Q. Okay. So it's fair to say 15 that, with respect to medical histories 16 then, that your recollection is that you 17 got the information on training problems 18 from Lynne Portlock? 19 A. Yes. 10 Q. Okay. What specifically was 11 talked about with the employees 12 (complaining that they were not adequately prepared? 13 (complaining that they were not adequately prepared? 14 Q. Well, you mentioned that you revered the employee statements? 17 Q. Did you a training, efforting and the propose statements of the propose of the propose statements of the propose o	1	O other than Ma Wash?	-	1	A No
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9 you know, something that I felt needed to 10 go into their employee file, I'd put it 1 in their employee file, I'd put i					
go into their employee file, I'd put it in their employee file.  I'd A. Correct.  A. Correct. She was her active supervisor.  Q. Did you have other occasions of uning that time frame where an area supervisor contacted you and said, I've got a problem with a trainer, with their training performance?  A. I don't recall. No. Not right now.  Page 269  Page 267  Page 267  Page 269  I that you need to keep all of your notes regarding Kathy Koch, if any?  A. No.  Q. Do you recall any instance ever of that happening in your entire career?  A. Sure. Yes. Q. Okay. And are those some of the instances we talked about earlier, for example, Marci Goldshlack? That's what we're talking about?  A. Yes. Q. Okay. What specifically was it about the medical history that was I'd about the medical history tha					
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15 file? 16 A. Yes. 17 Q. Do you recall putting any notes regarding Kathy Koch in her file? 18 notes regarding Kathy Koch in her file? 19 A. I don't believe I did. 20 Q. Generally, how long would 20 you keep those notes? 21 you keep those notes? 22 A. Not long. A couple months. 23 Q. Did you ever receive any instruction from anybody at the company 24 instruction from anybody at the company 24 instruction from anybody at the company 25 A. No. 21 that you need to keep all of your notes regarding Kathy Koch, if any? 26 A. No. 27 Q. Okay. So it's fair to say 27 that, with respect to medical histories 28 then, that your recollection is that you 29 got the information on training problems 29 from Lynne Portlock? 20 Okay. What specifically was 21 Lynne's concern? Was it what you just 21 talked about with the employees 21 talked about with the employees 21 training performance is not good, or words to that effect, there's a problem with a trainer, training problems 21 talked about with the employees 21 training performance is not good, or words to that effect, there's a problem with a trainer, training performance is not good, or words to that effect, there's a problem with her training, other than Ms. Goldshlack and Ms. Koch? 21 employees — 22 A. No. 22 Okay. Who are the trainers? 21 A. One I'm thinking of right employees 21 fld hove to think about it. But, yes, 23 I'd have to think about it. But, yes, 24 I'd have to think about it. But, yes, 25 I'd have to think about it. But, yes, 26 I'd have to think about it. But, yes, 27 I'd have to think about it. But, yes, 27 I'd have to think about it. But, yes, 28 I'd have to think about it. But, yes, 29 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have to think about it. But, yes, 20 I'd have					
16 A. Yes. 17 Q. Do you recall putting any 18 notes regarding Kathy Koch in her file? 19 A. 1 don't believe I did. 20 Q. Generally, how long would 21 you keep those notes? 22 A. Not long. A couple months. 23 Q. Did you ever receive any 24 instruction from anybody at the company  Page 267  1 that you need to keep all of your notes 2 regarding Kathy Koch, if any? 3 A. No. 4 Q. Okay. So it's fair to say 4 that, with respect to medical histories 4 then, that your recollection is that you 7 got the information on training problems 8 from Lynne Portlock? 9 A. Yes. 10 Q. Okay. What specifically was 11 tabout the medical history that was 12 Lynne's concern? Was it what you just 13 talked about with the employees 14 complaining that they were not adequately 15 prepared? 16 A. Yes. 17 Q. Do you recall any instance 18 Q. Do you recall nay instance 2 ever of that happening in your entire 2 career? 3 A. Sure. Yes. 5 Q. Okay. And are those some of 4 the instances we talked about earlier, 5 for example, Marci Goldshlack? That's 5 what we're talking about?  A. Yes. 18 Q. Did you have other occasions 4 during that time frame where an area 5 supervisor contacted you and said, I've 2 got a problem with a trainer, with their 2 training performance? 2 regarding Kathy Koch, if any? 2 A. No. 3 A. I don't recall. No. Not 4 Q. Do you recall any instance 2 ever of that happening in your entire 2 career? 4 A. Sure. Yes. 5 Q. Okay. And are those some of 6 the instances we talked about earlier, 6 for example, Marci Goldshlack? That's 6 what we're talking about? 8 A. Yes. 9 A. Yes. 10 Q. Other than Marci Goldshlack, 11 doy ou remember any instances of an area 12 supervisor, or a regional supervisor or a 13 general manager, contacting you and 14 saying got a problem with a trainer, 15 training performance? 16 A. Yes. 17 Q. Well, you mentioned that you 18 reviewed the employee statements? 19 A. Yes. 20 Q. Did you talk to the 21 employees — 22 A. No. 23 Q who wrote those 24 do you remember any instances 25 of the instances we talked about e					
17 Q. Do you recall putting any notes regarding Kathy Koch in her file? 18 A. I don't believe I did. 29 Q. Generally, how long would you keep those notes? 21 you keep those notes? 22 A. Not long. A couple months. 23 Q. Did you ever receive any instruction from anybody at the company 24 instruction from anybody at the company 25 regarding Kathy Koch, if any? 26 A. No. 27 Q. Okay. So it's fair to say that, with respect to medical histories then, that your recollection is that you got the information on training problems from Lynne Portlock? 29 A. Yes. 20 Q. Okay. What specifically was it about the medical history that was 12 Lynne's concern? Was it what you just 14 taked about with the employees complaining that they were not adequately prepared? 20 Did you have other occasions during that time frame where an area supervisor contacted you and said, I've got a problem with a trainer, with their training performance? 20 Did you recall any instance ever of that happening in your entire career? 21 A. Sure. Yes. 22 Q. Okay. And are those some of the instances we talked about earlier, for example, Marci Goldshlack? That's what we're talking about? 30 A. Yes. 31 Ves. 41 Q. Other than Marci Goldshlack, do you remember any instances of an area supervisor, or a regional supervisor or a general manager, contacting you and said, I've got a problem with a trainer, training performance is not good, or words to that effect, there's a problem with her training, other than Ms. 32 Q. Okay. Who are the trainers? 33 A. I don't recall. No. Not right now. 34 Q. Do you recall any instance ever of that happening in your entire career? 4 A. Sure. Yes. 4 A. Sure. Yes. 6 Q. Okay. And are those some of the instances we talked about earlier, for example, Marci Goldshlack? That's what we're talking about? 4 A. Yes. 9 Q. Other than Marci Goldshlack, do you remember any instances of an area supervisor, or a regional supervisor or a general manager, contacting you and said, I've got a problem with a trainer, training performance is not good, or					
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		Page 274	!		Page 276
1	that you had with respect to Ms. Koch in		1	following the agenda, was there any other	
2	1998?		2	specific item that was of concern?	
3	A. No.		3	A. I believe her approach with	
4	Q. Okay. How are they		4	the center level employees and her	
5	different?		5	ability to get along with them and have	
6	A. I was not as active with the		6	them learn from her. There was a	
7	trainers as the directors of training are		7	conflict with the center level employees.	
8	now or in the last three years. The		8	Q. Okay. How did you learn of	
9	person that was giving them feedback,		9	that?	
10	critiquing them, working with them was		10	A. Lynne Portlock.	
11	their supervisor.		11	<ul><li>Q. What did Lynne say to you</li></ul>	
12	Q. Okay. I want to go back		12	about that issue?	
13	to I think we had covered the problems		13	A. I don't remember	
14	you were seeing or the problems that you		14	specifically, but, in general, that her	
15	were made aware of with respect to Ms.		15	employees didn't like Kathy, didn't	
16	Koch with respect to inconsistencies with		16	want that she had some requests that	
17	the agenda in her territory, within her		17	some of her employees did not want her	
18	territory. You also mentioned some		18	back in their centers. You know, she	
19	inconsistencies with her approach that		19	didn't want her employees upset. You	
20	you believe was taking place as compared		20	know, she was, you know, afraid of losing	
21	to other territories. Because, remember,		21	them, some of them quitting over it,	
22	where he talked about within the		22	those type of issues.	
23	territory, inconsistency among centers,		23	Q. Did she say that someone had	
24	and then we talked about we set aside		24	specifically threatened to quit if there	
			_		
		Page 275			Page 277
1	for a moment the inconsistency between		1	wasn't something done to remedy Ms.	
2	territories. Now I want to go back to		2	Koch's performance? Did she say that,	
3	that. What were the problems that you		3	someone had been threatening to quit?	
4	became aware of on that issue? Was it		4	A. She said that she was	
5	the same ones we just talked about?		5	worried about her visiting centers	
6	A. Yes. Because our goal was		6	because she was upsetting them. And the	
7	that our training plan was our training		7	last thing that she could do is lose	
8	plan, and that if we had certain topics		8	employees over this.	
9	outlined for day one, that's what we		9	Q. Okay. So she said she was	
10	wanted taught on day one through day		10	upsetting employees? A. Yes.	
11	five. So that we had a way of managing		12	Q. Did she say what Ms. Koch	
12 13	what was being taught in our training classes company-wide.		13	was doing that was upsetting people?	
13	Q. Okay. So is it fair to say		14	A. Again, she commented on her	
15	that when you talked about the issue of		15	approach, how she approved them.	
16	not following the training agenda that,		16	Q. What was wrong with the	
17	regardless of whether we're talking about		17	approach, according to Ms. Portlock?	
18	consistency between centers or		18	A. I don't remember	
19	consistency between territories and		19	specifically what she said. In general,	
20	trainers, what you were talking about was		20	it was about her being interrupting	
21	the issues of the program explanation,		21	them, just as I said earlier, being	
			1 22	not creating a positive learning	
22	chart work-up, medical history, correct?		22		
23	A. Yes.		23	environment.	
			E		